

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

D. T. E. No. 98-57

REQUEST: Department of Telecommunications and Energy's Record Requests to AT&T Communications of New England, Inc.

DATED: January 27, 2000

RR-97: On page 2, line 19 of Mr. Cederqvist's testimony, Mr. Cederqvist states that the provision in Section 13.1.B is not permitted by the FCC. Please clarify what is meant by this section.

Respondent: Fredrick Cederqvist

RESPONSE: The referenced section of testimony notes that Part B, Section 13.1.B of the proposed Tariff prohibits EEL arrangements from being connected to Bell Atlantic's special access multiplexing or transport services that already have been purchased by CLECs to provide special access service to local exchange customers. This attempt by Bell Atlantic to impose restrictions on a CLEC's use of network elements is not permitted by the FCC.

The FCC has recognized that Section 251 (c) (3) of the Telecommunications Act of 1996 (47 U.S.C. § 251 (c) (3)), which requires incumbent local exchange carriers to provide access to network elements on terms that are just, reasonable and nondiscriminatory, precludes the imposition of restrictions on how the network elements are used. The FCC made this point clearly in both its First Report and Order (Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order, 11 FCC Rcd, 19392 (1996)) and in regulations implementing the Act's requirements. In the First Report and Order, the FCC concluded that (1) "Section 251 (c) (3) does not impose any service-related restrictions or requirements on requesting carriers in connection with the use of unbundled elements" (¶ 264), and (2) "incumbent LECs may not impose restrictions upon the uses to which requesting carriers put such network elements" (¶ 27). 47 C.F.R. § 51.307 (c) provides that incumbents must provide network elements "in a manner that allows the requesting carrier to provide any telecommunications service that can be offered by the means of that network element." 47 C.F.R. § 51.309 (a) provides that incumbent carriers "shall not impose limitations, restrictions, or requirements on requests for, or the use of, unbundled network elements that would impair the ability of a requesting carrier to offer a telecommunications service in the manner the requesting telecommunications carrier intended."

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RR-98: Regarding the issue of forward-looking cost relationships versus embedded costs addressed in the testimony of Mr. Cederqvist, how would Bell Atlantic's worksheets need to be changed to qualify the cost study as forward-looking?

Respondent: Thomas LoFrisco & Fredrick Cederqvist

RESPONSE: A critical problem with Bell Atlantic's Part Q cost study regarding the proposed Expanded Extended Link Test is that it is fundamentally an embedded cost study that relies on historic cost data rather than a forward-looking cost study that projects the costs Bell Atlantic will incur in the future assuming the use of the most efficient available technologies. The testimony referred to in this request simply illustrates that, by failing even to consider a forward-looking environment and by relying on historic cost data that is now five years old, the cost study is, on its face, an embedded study rather than a forward-looking study.

Because Bell Atlantic has not provided any description of its embedded calculations, we are unable to conceive of what technologies drove the embedded costs, and therefore cannot adjust them to forward-looking levels - there is simply no basis for making adjustments. Additionally, because the approach to testing has changed fundamentally over the last several years from one in which technicians were manually dispatched to sectionalize troubles to one in which technicians can sectionalize troubles in minutes at a central terminal, it may not be possible to make any modifications to the embedded costs presented by Bell Atlantic. Even if Bell Atlantic provided a lucid description of the basis for the embedded cost relationships, the differences between Bell Atlantic's embedded, and probably obsolete, technology and forward-looking technologies may be too great to create any logical bridge between the two - they are simply incompatible.

The example provided in the testimony of Remote Testing Equipment that can reduce the time and effort previously experienced in testing loops illustrates why there is a fundamental disconnect between historic costs relied on by Bell Atlantic and the forward-looking costs of testing loops that can be realized in a forward-looking efficient environment. This distinction is critical given the enormous advances in telecommunications technology that have been achieved in the last five years and will continue to be achieved on a forward-looking basis.

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In summary, in order to provide a forward-looking cost study, the embedded study relied on by Bell Atlantic should probably be discarded in its entirety and replaced with a study in which thorough consideration is given to the most efficient technologies expected to be available on a forward-looking basis.

It also is important to recognize that the embedded nature of the cost study is not the only fundamental flaw with Bell Atlantic's study and that simply providing a forward-looking study will not resolve all problems. For example, Bell Atlantic proposes that link test charges be assessed on a recurring basis despite the fact that the costs are transaction based. The Department has, in its October 14, 1999 Phase 4-L Order that considered OSS and non-recurring charges, recognized that general principles of rate design require that care be taken to distinguish transaction-based or usage sensitive costs that are recovered in transaction-based rates from recurring charges in order to avoid the misallocation of costs that can serve as a barrier to competition.

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RR-99: Please provide a copy of the results of AT&T cost expert's investigation of the double-recovery issue identified in the testimony of Mr. Cederqvist.

Respondent: Thomas LoFrisco & Fredrick Cederqvist

RESPONSE: Based on the data presented by Bell Atlantic, it does in fact appear that Bell Atlantic has double-counted its testing costs. Here are the steps that show the apparent double-count.

A. Lines 1-3 of Part Q, Worksheet 1 of 9 shows prices for various loops. The source of those rates is the Massachusetts Compliance Filing.

B. In the Massachusetts Compliance Filing, loops were imputed with the cost of Directly Attributable and Common factors. These factors are shown on in Attachment

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E, Page 23 of the Compliance Filing (the bottom of the page).

C. Line 10 of Attachment E, Page 23 of the Compliance Filing shows that testing costs were included in the development of the Directly Attributable and Common factors.

D. Therefore, because loops include directly attributable and joint costs and those joint costs include testing costs, then loops already include the costs for testing.

E. However, on Line 4 of Part Q, Worksheet 1 of 9, Bell Atlantic again adds testing costs to the loops

F. CONCLUSION: Bell Atlantic has included loop testing costs in the loop prices contained in the Massachusetts Compliance Filing and would be recovering loop test costs a second time if permitted to impose the same link test charge on top of the loop prices as part of the Expanded Extended Link offering contained in proposed Tariff 17.